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TAGS: [PREL](#) [KCRM](#) [PHUM](#) [RW](#) [TZ](#)
SUBJECT: RWANDA PREPARED TO SEVER TIES WITH ICTR

REF: A. KIGALI 00883
[1](#)B. KIGALI 00891

Classified By: CDA D. Purnell Delly for reasons 1.4(b) and (d).

[1](#)1. (C) SUMMARY: The Government of Rwanda (GOR) is pursuing the issue of suspected genocidaires working at the International Criminal Tribunal for Rwanda (ICTR) by pressing the ICTR to respond on the issue and by encouraging the Tanzanian authorities to work with the GOR. The GOR is prepared to end cooperation with the ICTR should its response be unsatisfactory, and requested USG support to successfully resolve the problem. Ambassador Retzer will visit the ICTR with other Chiefs of Mission when the Friends of the ICTR travel to Arusha on September 25. END SUMMARY

Genocide suspects employed at ICTR

[1](#)2. (C) Alloys Mutabingwa, Rwanda's Special Representative to the International Criminal Tribunal for Rwanda (ICTR), and Zeno Mutimura, Rwanda's Ambassador to Tanzania, met with Ambassador Retzer on September 15. Mutabingwa said relations between the GOR and the ICTR generally have been good, but noted there have been "hiccups here and there" and proceeded to discuss one issue of particular concern. Mutabingwa said the Government of Rwanda (GOR) is pressing the ICTR on the "difficult" issue of genocide suspects being employed at the Tribunal. Mutabingwa said the GOR has been communicating with the ICTR on this issue consistently since 2000, presenting lists and summaries concerning suspected genocidaires employed at the ICTR and requesting meetings with court officials, but that the ICTR had not taken action or responded formally. In 2005, the GOR provided the ICTR with a short list of 13 suspected genocidaires employed at the ICTR, announced the GOR's intention to put interpol on notice and requested the ICTR's urgent attention. Mutabingwa demonstrated the GOR's resolve regarding this issue by saying that the GOR will pursue it "even if there was just one week left in the court's mandate."

Gakwaya arrest and release

[1](#)3. (C) Having received no response, the GOR has decided to pursue the issue of suspected genocidaires employed at the ICTR in concrete terms by identifying specific cases for an ICTR response, Mutabingwa said. In March 2006, the GOR submitted to the ICTR an arrest warrant for Callixte Gakwaya who worked at the ICTR in different capacities since 2001 and was being considered for the position of Lead Counsel. Subsequently, the ICTR employed Gakwaya as Lead Counsel and informed the GOR of his new position. Feeling that the ICTR disregarded the information the GOR had provided, and insulted that a suspected genocidaire was employed at a senior, high-profile position, the GOR worked with authorities in Tanzania, Mozambique, Malawi and Zambia to

track Gakwaya and located him in an Arusha hotel near the ICTR.

¶4. (C) The Tanzanian police arrested Gakwaya on September 1 based on documents provided by GOR officials and on September 4 the GOR submitted to the Government of Tanzania a request for extradition of Gakwaya. Instead, Tanzanian authorities released Gakwaya on September 5. Mutabingwa attributed Gakwaya's release to the ICTR's "serious protest letter" and characterized the ICTR's response as "interfering with due process." ICTR press releases of September 5 and 6 state the ICTR took "appropriate measures" to secure the welfare of Gakwaya and that ICTR officers visited and spoke with Gakwaya at the police station, but that he "was only released after undertakings were made by private persons to the Tanzanian police." Mutabingwa said that ICTR officials escorted Gakwaya to the Mozambique border after his release but, as far as Mutabingwa knew, authorities there were not tracking Gakwaya.

GOR pushes for ICTR response

¶4. (C) Upon learning of Gakwaya's release, the GOR called for the ICTR to terminate his employment. Rwanda's State Minister for Cooperation, Rosemary Museminali, was quoted in the New Times on September 12 as having said "we are waiting for a week to elapse . . . we shall then take a serious measure. Among the alternative decisions is stopping our cooperation with them (the ICTR)." The lack of any action or response by the ICTR prompted the GOR to send a note verbale to the ICTR on September 13, the date of its weekly cabinet meeting. The note communicates the GOR's "decision" that the ICTR's Registrar arrange to meet with GOR judicial authorities to find a solution to the problem of Gakwaya and the 13 other fugitives employed at the ICTR, and reserves the GOR's right to take further appropriate measures. Mutabingwa said if there was no response from the ICTR the week of September 18, the GOR would consider "the strongest measure" and, when pressed, said "we won't say it, but we'll end cooperation with the court."

Registrar Dieng

¶5. (C) When asked whether the GOR is considering requesting Registrar Adama Dieng to resign, Mutabingwa said it is up to Dieng's colleagues to decide what to do with him and that Dieng was acting as anyone else would in the circumstances.

Immunity of ICTR employees

¶6. (U) While the ICTR cited the immunity granted to employees of the ICTR in an agreement between Tanzania and the United Nations as the reason Gakwaya should be released from custody, Mutabingwa said the term "immunity" is being abused. He pointed out that an attachment to that agreement specified that immunity would not apply when it would make the Tribunal a hiding place for suspected criminals. Mutabingwa also noted that the agreement provides immunity for acts committed by ICTR employees during the course of their employment and not for prior acts. "How can the ICTR grant immunity for acts committed before it even existed," Mutabingwa asked.

Effect on witnesses

¶7. (C) The presence of suspected genocidaires at the ICTR creates an intimidating atmosphere for witnesses, Mutabingwa said. Witnesses are bribed to not testify and if they refuse the bribe, there may be repercussions, Mutabingwa said, adding that a few witnesses have been killed when they return to Rwanda. "The presence of suspects at the ICTR terrorizes witnesses," Mutabingwa said, adding the ICTR has become a place to face terrorists, as genocide is one form of terrorism. "The situation encourages criminals to become an international network of terrorism and as a nation, we cannot tolerate this," Mutabingwa said.

Next issue to address

¶8. (C) Mutabingwa identified the ICTR's finances as the next problem that the GOR wants to address, noting that "it all comes back to money." He elaborated that the ICTR has implemented only selected recommendations from its audit report, refusing the recommendations that it use a lump sum system of paying attorneys and conduct reference checks of potential employees. Mutabingwa hinted at a financial motive regarding the employment of suspected genocidaires, saying the gap between that problem and the ICTR's finances was not as large as one might think. Ambassador Retzer identified the upcoming visit of the Friends of the ICTR to Arusha as an opportunity for the ICTR to show where the money goes.

Friends of the ICTR to visit Arusha

¶9. (C) The Friends of the ICTR plan to visit the ICTR on September 25 and have proposed the following agenda items for their meeting with ICTR President Mose:

Status of completion strategy;
Extension of time for Ad Litem judges;
Suspects still at large, especially outside Rwanda (including Kabuga);
Possible contact with AU about conversion to the African Court for Human and Peoples Rights; and
Relationship between ICTR and Rwanda.

The Ambassadors of the U.S., Norway, Belgium, France, Sweden, Germany and the Netherlands and the High Commissioners of Canada and the U.K. plan to attend.

¶10. (U) Ambassador Retzer recommended that Mutabingwa and Mutimura visit with the Chiefs of Mission planning to visit the ICTR in advance of their September 25 meeting in Arusha. Though Mutabingwa and Mutimura said they were not aware of the Friends' upcoming visit, in addition to meeting with Ambassador Retzer September 15, they met with the British High Commissioner on September 14, and had an appointment with the French Ambassador the week of September 18. In addition, Mutabingwa met with Justin Seruhire, Minister Plenipotentiary of the Ministry of Foreign Affairs' United Nations Security Council Unit, in Dar es Salaam the week of September 4.

New spokesperson at ICTR

¶11. (C) The ICTR changed its spokesperson on September 12, replacing Tim Gallimore, Information Officer in the ICTR's External Relations and Strategic Planning Section, with Acting Deputy Registrar Everard O'Donnell. The ICTR has not announced this change or offered an explanation, but it was noted in the Kigali press. In a September 13 message to Poloff, Gallimore (please protect) described it as a "quite sudden and unexpected change" and his future with the ICTR was still unclear September 19. In response to Poloff's inquiry regarding the Gakwaya matter, Gallimore advised to "stay tuned" as he was told it "will get very nasty with repercussions of nuclear proportions for ICTR!"

COMMENT

¶12. (C) The ICTR's swift reaction to Gakwaya's arrest but subsequent silence regarding him and the other alleged genocidaires employed at the ICTR may force the GOR to take the unfortunate step of severing ties with the Tribunal. A decision by the GOR to terminate its cooperation with the ICTR would have a number of implications. It could affect the Tribunal's completion strategy and the start-up of the African Union Court of Justice which plans to assume the physical space at the Arusha International Conference Centre utilized by the ICTR. Additionally, Rwanda has argued steadfastly that it has the right to receive both the unfinished cases of, and persons convicted by, the Tribunal. While these issues are by no means resolved, the GOR severing ties with the ICTR likely would be a factor in these decisions--an indication of how seriously the GOR considers this situation.

